

(e) Review and concurrence in the National Office is required if the security will not include a pledge of taxes, the applicant cannot provide evidence of the financially successful operation of a similar facility for the 5 years immediately prior to loan application, and the amount of the loan will exceed \$250,000.

(f) Loans under this subpart are subject to the provisions of § 1942.17(g)(1) of subpart A of this part 1942, regarding security for projects utilizing joint financing.

[52 FR 43726, Nov. 16, 1987; 52 FR 47097, Dec. 11, 1987]

#### **§ 1942.115 Reasonable project costs.**

Applicants are responsible for determining that prices paid for property rights, construction, equipment, and other project development are reasonable and fair. FmHA or its successor agency under Public Law 103-354 may require an appraisal by an independent appraiser or FmHA or its successor agency under Public Law 103-354 employee.

#### **§ 1942.116 Economic feasibility requirements.**

All projects financed under this section must be based on taxes, assessments, revenues, fees, or other satisfactory sources of revenues in an amount sufficient to provide for facility operation and maintenance, a reasonable reserve, and debt payment. An overall review of the applicant's financial status, including a review of all assets and liabilities, will be a part of the docket review process by the FmHA or its successor agency under Public Law 103-354 staff and approval official. All applicants will be expected to provide a financial feasibility report. These financial feasibility reports will normally be:

(a) Included as part of the preliminary engineer/architectural report using guide 6 to subpart A of this part 1942 (available in any FmHA or its successor agency under Public Law 103-354 Office), or

(b) Prepared by the applicant using Form FmHA or its successor agency under Public Law 103-354 1942-54, "Applicant's Feasibility Report."

#### **§ 1942.117 General requirements.**

(a) *Reserve requirements.* Loans under this subpart are subject to the provisions of § 1942.17 (i) of subpart A of this part 1942.

(b) *Membership authorization.* The membership of organizations other than public bodies must authorize the project and its financing except the District Director may, with the concurrence of the State Director (with advice of OGC as needed), accept the loan resolution without such membership authorization when State statutes and the organization charter and by-laws do not require such authorization.

(c) *Insurance and bonding.* Loans under this subpart are subject to the provisions of § 1942.17(j)(3) of subpart A of this part 1942.

(d) *Acquisition of land and rights.* Loans under this subpart are subject to the provisions of § 1942.17(j)(4) of subpart A of this part 1942.

(e) *Lease agreements.* Loans under this subpart are subject to the provisions of § 1942.17(j)(5) of subpart A of this part 1942.

(f) *Notes and bonds.* Loans under this subpart are subject to the provisions of §§ 1942.17(j)(6) and 1942.19 of subpart A of this part 1942.

(g) *Public Information.* Loans under this subpart are subject to the provisions of § 1942.17 (j)(9) of subpart A of this part 1942.

(h) *Joint funding.* Loans under this subpart are subject to the provisions of §§ 1942.2 (e) and 1942.17 (j)(11) of subpart A of this part 1942.

#### **§ 1942.118 Other Federal, State, and local requirements.**

(a) Loans under this subpart are subject to the provisions of § 1942.17 (k) of subpart A of this part 1942.

(b) An initial compliance review should be completed under subpart E of part 1901 of this chapter.

#### **§ 1942.119 Professional services and borrower contracts.**

(a) Loans under this subpart are subject to the provisions of § 1942.17 (l) of subpart A of this part 1942.

(b) The District Director will, with assistance as necessary by the State Director and OGC, concur in agreements between borrowers and third

parties such as contracts for professional and technical services. The State Director may require State Office review of such documents in accordance with §1942.108 (g) of this subpart. State Directors are expected to work closely with representatives of engineering and architectural societies, bar associations, commercial lenders, accountant associations, and others in developing standard forms of agreements, where needed, and other matters to expedite application processing, minimize referrals to OGC, and resolve problems which may arise. Standard forms should be reviewed by and approved by OGC.

**§§ 1942.120–1942.121 [Reserved]**

**§ 1942.122 Actions prior to loan closing and start of construction.**

(a) *Excess FmHA or its successor agency under Public Law 103–354 loan funds.* Loans under this subpart are subject to the provisions of §1942.17 (n)(1) of subpart A of this part 1942.

(b) *Loan resolutions.* Loans under this subpart are subject to the provisions of §1942.17 (n)(2) of subpart A of this part 1942.

(c) *Interim financing.* Loans under this subpart are subject to the provisions of §1942.17 (n)(3) of subpart A of this part 1942.

(d) *Applicant contribution.* Loans under this subpart are subject to the provisions of §1942.17 (n)(5) of subpart A of this part 1942 this chapter.

(e) *Evidence of and disbursement of other funds.* Loans under this subpart are subject to the provisions of §1942.17 (n)(6) of subpart A of this part 1942.

(f) *Assurance agreement.* All applicants must execute Form FmHA or its successor agency under Public Law 103–354 400–4, “Assurance Agreement,” at or before loan closing.

**§ 1942.123 Loan closing.**

(a) *Ordering loan checks.* Checks will not be ordered until:

(1) Form FmHA or its successor agency under Public Law 103–354 440–57, “Acknowledgement of Obligated Funds/Check Request,” has been received from the Finance Office.

(2) The applicant has complied with approval conditions and any closing in-

structions, except for those actions which are to be completed on the date of loan closing or subsequent thereto.

(3) The applicant is ready to start construction or funds are needed to pay interim financing obligations.

(b) *Public bodies and Indian tribes.* (1) After loan approval the completed docket will be reviewed by the State Director. The information required by OGC will be transmitted to OGC with a request for closing instructions. Upon receipt of the closing instructions from OGC, the State Director will forward them along with any appropriate instructions to the District Director. Upon receipt of closing instructions, the District Director will discuss with the applicant and its architect or engineer, attorney, and other appropriate representatives, the requirements contained therein and any actions necessary to proceed with closing.

(2) Loans will be closed in accordance with the closing instructions issued by OGC and §1942.19 of subpart A of this part 1942.

(c) *Organizations other than public bodies and Indian tribes.* District Directors are authorized to close loans to organizations other than public bodies and Indian tribes without closing instructions from OGC. State Directors, in consultation with OGC, should develop standard closing procedures and forms as needed. Assistance with loan closing and a certification regarding the validity of the note and mortgage or other debt instruments should be provided by the applicant's attorney. Appropriate title opinion or title insurance is required as provided in §1942.17 (j)(4)(i)(B) of subpart A of this part 1942.

(d) *Authority to execute, file, and record legal instruments.* District Office employees are authorized to execute and file or record any legal instruments necessary to obtain or preserve security for loans. This includes, as appropriate, mortgages and other lien instruments, as well as affidavits, acknowledgements, and other certificates.

(e) *Mortgages.* Unless otherwise required by State law or unless an exception is approved by the State Director